

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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THE FOOTBALL ASSOCIATION	)	
PREMIER LEAGUE LIMITED AND	)	
BOURNE CO., ET AL., ON BEHALF	)	
OF THEMSELVES AND ALL OTHERS	)	
SIMILARLY SITUATED,,	)	
	)	
PLAINTIFFS,	)	
vs.	)	07 CIV. 3582(LLS)
	)	
YOUTUBE, INC., YOUTUBE, LLC	)	
AND GOOGLE, INC.,,	)	
	)	
DEFENDANTS.	)	
	)	
	)	
VIACOM INTERNATIONAL INC.,	)	
COMEDY PARTNERS, COUNTRY MUSIC	)	
TELEVISION, INC., PARAMOUNT	)	
PICTURES CORPORATION, AND	)	
BLACK ENTERTAINMENT	)	
TELEVISION, LLC,	)	
	)	
PLAINTIFFS,	)	
vs.	)	07 CIV. 2103 (LLS)
	)	
YOUTUBE, INC., YOUTUBE, LLC	)	
AND GOOGLE, INC.,,	)	
	)	
DEFENDANTS.	)	

VIDEOTAPED DEPOSITION OF COURTNEY NIEMAN  
WEDNESDAY, DECEMBER 16, 2009  
PALO ALTO, CALIFORNIA

Job No. 18293

DAVID FELDMAN WORLDWIDE, INC.  
450 Seventh Avenue - Ste 2803, New York, NY 10123 (212)705-8585

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BLACK ENTERTAINMENT )  
TELEVISION, LLC, )

PLAINTIFFS, )  
vs. )

07 CIV. 2103 (LLS)

YOUTUBE, INC., YOUTUBE, LLC )  
AND GOOGLE, INC.,, )

DEFENDANTS. )

VIDEOTAPED DEPOSITION OF COURTNEY NEIMAN,  
TAKEN ON BEHALF OF THE DEFENDANTS, AT 9:28 A.M.,  
WEDNESDAY, DECEMBER 16, 2009 AT 650 PAGE MILL ROAD,  
PALO ALTO, CALIFORNIA BEFORE MARY JACKSON, CSR NO.  
8688, PURSUANT TO NOTICE.

DAVID FELDMAN WORLDWIDE, INC.

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ALSO PRESENT: OSAMA HUSSAIN, BayTSP Counsel  
STUART PETTIGREW, Videographer

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1 INSTRUCTED NOT TO ANSWER

2 10:58AM Page 66, Line 2

3 10:58AM MR. KRAMER: Q. And what clip lengths  
4 were given to you by other BayTSP clients for use as  
5 a standard by which fair use should be determined?

6  
7 5:46PM Page 303, Line 2

8 5:46PM Q. Did you participate in a conversation  
9 among the various lawyers?

10  
11 5:47PM Page 304, Line 3

12 5:47PM Q. My question is whether you heard anything  
13 during the break that was said by a lawyer other  
14 than your own?

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 PALO ALTO, CALIFORNIA;

2 WEDNESDAY, DECEMBER 16, 2009, 9:28 A.M.

3 8:35

4 9:28

THE VIDEOGRAPHER: Today's videotaped deposition is taken on December 16th, 2009, at Wilson Sonsini, 650 Page Mill Road, Palo Alto, California 94304 in the matter of Viacom International and others and the Football Association Premier and others versus YouTube, Incorporated and others. The cases are 1:07CV02103 and 07CV3582 in the United States District Court for the Southern District of New York. My name is Stuart Pettigrew. I represent David Feldman Worldwide located at 600 Anton Boulevard, Suite 1100, in Costa Mesa, California. We're now commencing at approximately 9:29 a.m.

17 9:28

Will all present please identify themselves beginning with the witness.

19 9:28

THE WITNESS: Courtney Nieman.

20 9:28

MS. COLEMAN-BISHOP: Merissa Coleman-Bishop appearing on behalf of Courtney Nieman who's present.

23 9:29

MR. COX: James Cox, Jenner & Block, on behalf of Viacom.

25 9:29

MR. PELES: Gil Peles, Proskauer Rose on

1                   behalf of the Premier League, plaintiff.

2    9:29                   MR. KELLY:   Phil Kelly on behalf non-party  
3                   BayTSP.

4    9:29                   MR. HUSSAIN:   Osama Hussain, in-house  
5                   counsel, BayTSP.

6    9:29                   MR. VOLKMER:   Bart Volkmer representing  
7                   Google and YouTube from Wilson, Sonsini, Goodrich &  
8                   Rosati.

9    9:29                   MR. KRAMER:   And I'm David Kramer  
10                   representing the defendants as well.

11   9:29                   THE VIDEOGRAPHER:   Thank you.   Please  
12                   swear in the witness.

13   9:29                                   COURTNEY NIEMAN,

14   9:29                                   having been first duly sworn, was

15   9:29                                   examined and testified as follows:

16   9:29   EXAMINATION

17   9:29                   THE VIDEOGRAPHER:   Please begin.

18   9:29                   MR. KRAMER:   Q.   Ms. Neiman, have you ever  
19                   had your deposition taken before?

20   9:29                   A.   No.

21   9:29                   Q.   Just a couple things to keep in mind.   You  
22                   had a chance to talk with your counsel about this in  
23                   advance, but the oath that you just took that is as  
24                   if you were testifying in court.   Do you understand  
25                   that?

1           there, there was an explanation that says you do  
2           this this many times, you're done.

3   4:51                    So did -- do I know BayTSP caused this?  
4           No. Do I know was this caused after or between the  
5           13th and the 17th? I do not. I -- I don't know why  
6           it came down, other than it must have crossed the  
7           terms of service line for YouTube.

8   4:51                    MR. KRAMER: Q. Keep that one in front of  
9           you for a second, Ms. Nieman.

10  4:51                    Your message to Mr. Ishikawa on the second  
11           paragraph says, "Most of the support team at YouTube  
12           is out of town at a conference".

13  4:51                    A. Mm-hmm.

14  4:51                    Q. How would you know that kind of thing?

15  4:51                    A. I would have called because I'm trying to  
16           restore the account.

17  4:51                    Q. So in the event that a Viacom account was  
18           erroneously terminated, you would call to have it  
19           restored?

20  4:52                    A. I would broaden that to say, in the event  
21           that we find that there was no valid DMCA violation,  
22           BayTSP -- and I believe it is on their web page --  
23           says how you can challenge us and the process we  
24           will use to try to restore or rectify said takedown.

25  4:52                    Q. This is a slightly different angle though.

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1 I'm interested in whether it was a routine  
2 occurrence for you to call YouTube about the  
3 termination of an account for Viacom that was  
4 erroneous.

5 4:52 MR. COX: Objection to form.

6 4:52 THE WITNESS: No, I don't -- I don't  
7 remember making several or even many phone calls on  
8 Viacom's behalf to restore accounts or Paramount's  
9 behalf to restore accounts. But I would have done  
10 so every time one was presented to me.

11 4:53 MR. KRAMER: Q. Did you call other  
12 online services to have accounts restored that were  
13 erroneously terminated?

14 4:53 MR. COX: Same objection.

15 4:53 THE WITNESS: I believe I did because,  
16 again, if you can -- and look at the web page. If  
17 you tell us, no, that was my content, and you  
18 verify, yes, that was my content, we would take  
19 whatever the service's means provided to us to  
20 restore your content to where it was. So in the  
21 case of YouTube, if you yourself posted a video of  
22 your new car, and we took it down because somebody  
23 just goofed or it was an intentional act of malice  
24 on an unknown individual -- we don't care why it  
25 came down -- but if you came to BayTSP, said,

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1 "That's my car, that's my content, I want it back up  
2 there," then yes, we would do what we could to get  
3 it back online.

4 4:54 MR. KRAMER: Q. I'm actually interested  
5 in this particular conversation and this particular  
6 incident. You called YouTube about the erroneous  
7 termination of a Paramount account, right?

8 4:54 MR. COX: Objection to form.

9 4:54 THE WITNESS: Yes.

10 4:54 MR. KRAMER: Q. And the account went  
11 right back up, right?

12 4:54 A. Yes.

13 4:54 Q. So YouTube was, again, very responsive to  
14 your inquiry, correct?

15 4:54 A. Yes. But this is not a singular event. I  
16 did this for people not from Paramount and not  
17 involved in this project.

18 4:54 Q. In your message you wrote, "I have DC  
19 looking for any infringements sent to YouTube for  
20 user name Paraccount." What's that mean?

21 4:55 A. Data Control, DC. That one I remember.

22 4:55 Q. Ah, so data control. That's not a  
23 reference to a group of people in Washington, D.C.?

24 4:55 A. No. Data control is the team that, if you  
25 will, manages, I believe, inside BayTSP that handles